



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 11, 1992

Lisa A. Brown
Bracewell & Patterson
2000 South Tower Pennzoil Place
Houston, Texas 77002-2781

OR92-211

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15367.

Deer Park Independent School District (the district) received a request for the following information:

1. letters from parents of students who declined to permit their children to participate in the Positive Action program; and
2. a list, by school, of all students whose parents have declined to permit their children to participate in the Positive Action program, including the student's parent's names and the student's mailing address.

You assert that the letters are excepted from required public disclosure under sections 3(a)(1), 3(a)(14), 14(e), of the Texas Open Records Act, and under 20 U.S.C. § 1232g, the Family Educational Rights and Privacy Act of 1974.

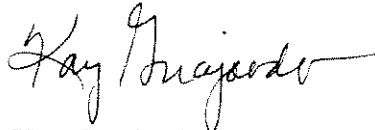
Section 3(a)(14) of the Open Records Act excepts from required public disclosure "student records at educational institutions funded wholly, or in part, by state revenue." "Student records" for purposes of section 3(a)(14) are records that contain information directly related to a student and that are maintained by an educational institution or agency. *See* Open Records Decision No. 332 (1982). The

letters at issue here contain information directly related to students. You may therefore withhold the letters pursuant to section 3(a)(14) of the Open Records Act.

You say the district does not have a list of students who are not participating in the Positive Action Program in the form described. The Open Records Act does not require the creation of new documents or the compilation of information in response to a request. Attorney General Opinion JM-672 (1987). Only documents in existence are subject to disclosure. *Id.* Thus, the district is not required to prepare the list described in the second requested item.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-211.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Kay Guajardo".

Kay Guajardo
Assistant Attorney General
Opinion Committee

KHG/lmm/jms

Ref: ID# 15367

cc: Mr. Thomas A. Taylor
1605 Tulsa Street
Deer Park, Texas 77536